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Counsel for Plaintiffs

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION**

TECHNOLOGY PROPERTIES LIMITED)	
LLC and MCM PORTFOLIO LLC,	)	Case Number: C 14-03640-CW
)	
Plaintiffs,	)	PLAINTIFFS' RESPONSE IN
	)	OPPOSITION TO DEFENDANTS'
vs.	)	ADMINISTRATIVE MOTION TO PER
	)	CAPITA SPLIT OF TECHNICAL

1	CANON, INC., et al.,	)	ADVISOR FEE
2	Defendants.)	
3	TECHNOLOGY PROPERTIES LIMITED)	
4	LLC and MCM PORTFOLIO LLC,	)	Case Number: C 14-03641-CW
5	Plaintiffs,	)	PLAINTIFFS' RESPONSE IN
6	vs.	)	OPPOSITION TO DEFENDANTS'
7	FALCON NORTHWEST COMPUTER	)	ADMINISTRATIVE MOTION TO PER
8	SYSTEMS, INC.,	)	CAPITA SPLIT OF TECHNICAL
9	Defendant.	)	ADVISOR FEE
10	TECHNOLOGY PROPERTIES LIMITED)	
11	LLC and MCM PORTFOLIO LLC,	)	Case Number: C 14-03643-CW
12	Plaintiffs,	)	PLAINTIFFS' RESPONSE IN
13	vs.	)	OPPOSITION TO DEFENDANTS'
14	HEWLETT-PACKARD COMPANY,	)	ADMINISTRATIVE MOTION TO PER
15	Defendant.	)	CAPITA SPLIT OF TECHNICAL
16	TECHNOLOGY PROPERTIES LIMITED	)	ADVISOR FEE
17	LLC and MCM PORTFOLIO LLC,)	
18	Plaintiffs,	)	Case Number: C 14-03645-CW
19	vs.	)	PLAINTIFFS' RESPONSE IN
20	NEWEGG INC., et al.,	)	OPPOSITION TO DEFENDANTS'
21	Defendants.	)	ADMINISTRATIVE MOTION TO PER
22	TECHNOLOGY PROPERTIES LIMITED	)	CAPITA SPLIT OF TECHNICAL
23	LLC and MCM PORTFOLIO LLC,	)	ADVISOR FEE
24	Plaintiffs,)	
25	vs.	)	Case Number: C 14-03646-CW
26	SEIKO EPSON CORPORATION, et al.,	)	PLAINTIFFS' RESPONSE IN
27		)	OPPOSITION TO DEFENDANTS'
28		)	ADMINISTRATIVE MOTION TO PER
		)	CAPITA SPLIT OF TECHNICAL
		)	ADVISOR FEE

1	Defendants.)	
2	TECHNOLOGY PROPERTIES LIMITED)	
3	LLC and MCM PORTFOLIO LLC,	)	Case Number: C 14-03647-CW
4)	
5	Plaintiffs,	)	PLAINTIFFS' RESPONSE IN
6		)	OPPOSITION TO DEFENDANTS'
7	vs.	)	ADMINISTRATIVE MOTION TO PER
8		)	CAPITA SPLIT OF TECHNICAL
9	SHUTTLE INC., et al.,	)	ADVISOR FEE
10)	
11	Defendants.)	

RELIEF SOUGHT

Pursuant to Civil Local Rule 7-11(b), Plaintiffs oppose Defendants' Administrative Motion Objecting to Per Capita Split of Technical Advisor Fee. The Court's Order Appointing Technical Advisor Kwan Chan orders the parties to pay the fees "on a per capita basis." Doc. 289 at 4, ¶ 7 (Case 4:14-cv-03640-CW). "Each party shall bear the fees and costs of the Technical Advisor on a per capita basis, payable in advance." *Id.*

Plaintiffs and Defendants agree that a per capita basis *does not* mean the fees should be split 50/50 between Plaintiffs and Defendants. Therefore, Defendants object to the "per capita" allocation and seek a 50/50 split. Plaintiffs' position is that the parties should follow the Court's Order and pay "on a per capita basis." Defendants' request for this Court to change its April 10, 2015 Order should be denied. However, given the parties' disagreement and the short time before claim construction, Plaintiffs agree that clarification is necessary.

ARGUMENT

The parties should follow the Court's Order and pay "on a per capita basis." In line with the Court's Order, Plaintiffs suggested that the \$100,000 initial deposit be divided seven ways

1 with Plaintiffs paying one-seventh and each Defendant or Defendant group paying one-seventh.
 2 Therefore, Plaintiffs wired their one-seventh share (\$14,285.72) to Mr. Chan's account.¹

3 Plaintiffs informed Defendants of their willingness to agree to other allocations in line
 4 with the Court Order to pay on a per capita basis. Doc. 297-1 at Ex. B. For example, there are
 5 two plaintiffs, and there are nine named defendants in the six defendant groups. A per capita
 6 allocation among the eleven entities would result in eleven shares of \$9,090.91. Plaintiffs would
 7 pay \$18,181.82. Defendants could divide the remainder "as they see fit," and Plaintiffs
 8 understand that this would also be in line with the Court's Order. Doc. 289 at 4, ¶ 7.

10 However, Defendants did not respond or propose any idea. Defendants proceeded to file
 11 their objections to the per capita allocation, because they did not anticipate a per capita allocation
 12 at the November 19, 2014 case management conference. Defendants' objections and request
 13 should be denied. A per capita allocation complies with the Court's Order. Further, a per capita
 14 basis is an equitable allocation of the fees as Mr. Kwan Chan will benefit all parties equally by
 15 serving as a technical advisor.

18 Dated: April 23, 2015

Respectfully submitted,

19 /s/ Benjamin R. Askew

20 Anthony G. Simon

21 Benjamin R. Askew

22 Michael P. Kella

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25 ¹ Presently, TPL does not have authority or cash collateral from the pending Chapter 11
 26 bankruptcy proceeding to pay more than a "per capita" split. However, TPL will certainly do
 27 everything within its power to quickly obtain more cash collateral should the Court grant
 28 Defendants' request and order a 50/50 split.

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22 *ATTORNEYS FOR PLAINTIFFS*
23 *TECHNOLOGY PROPERTIES LIMITED LLC and*
24 *MCM PORTFOLIO LLC*

25 **CERTIFICATE OF SERVICE**

26 The undersigned certifies that a copy of the foregoing was served on counsel for all
27 parties of record on April 23, 2015 via the Court's CM/ECF system.

28 /s/Benjamin R. Askew